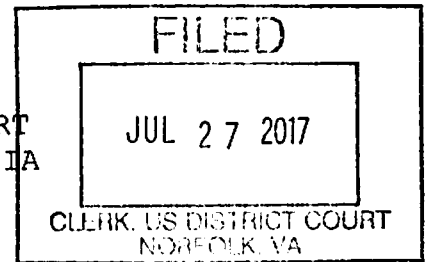


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



KEITH RANDOLPH STREET

Petitioner,

v.

CIVIL ACTION NO. 2:16cv11

HAROLD W. CLARKE, Director,
Virginia Department of Corrections,

Respondent.

FINAL ORDER

Before the Court is a petition for a writ of habeas corpus, ECF No. 1, filed pursuant to 28 U.S.C. § 2254, and the Respondent's Motion to Dismiss, ECF No. 19. On September 23, 2013, a Virginia Beach Circuit Court jury convicted Street of statutory burglary, in violation of Va. Code § 18.2-91, and petit larceny, in violation of Va. Code § 18.2-96. ECF Nos. 1 at 1 and 21, attach. 1 at 1. Following his conviction he was sentenced to five years in prison for the burglary conviction and fined \$350 for the petit larceny conviction. In his petition, the pro se Petitioner challenges the constitutionality of his conviction.

The matter was referred for disposition to a United States Magistrate Judge pursuant to 28 U.S.C. §§ 636(b)(1)(B)-(C), Federal Rule of Civil Procedure 72(b), Local Civil Rule 72, and

the April 2, 2002 Standing Order on Assignment of Certain Matters to United States Magistrate Judges. In a Report and Recommendation entered on June 9, 2017, ECF No. 25, the Magistrate Judge recommended the Motion to Dismiss be granted, and the Petition be denied and dismissed with prejudice. The parties were advised of their right to file written objections to the Report and Recommendation. Neither the Petitioner nor the Respondent filed objections with the Court.


Having reviewed the record and having heard no objection, the Court agrees with the Report and Recommendation on the grounds stated by the Magistrate Judge and **ADOPTS** and **APPROVES** the Report and Recommendation, ECF No. 25, in its entirety as the Court's own opinion. Accordingly, the Respondent's Motion to Dismiss, ECF No. 19, is **GRANTED**, and the Petition, ECF No. 1, is **DENIED** and **DISMISSED WITH PREJUDICE**. It is **ORDERED** that judgment be entered in favor of the Respondent.

The Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of the Court at the Walter E. Hoffman United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date judgment is entered. Because the Petitioner has failed to demonstrate a substantial showing of the denial of a

constitutional right pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b)(1), the Court declines to issue a certificate of appealability. See *Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

The Clerk is **DIRECTED** to forward a copy of this Order to the Petitioner and counsel of record for the Respondent.

It is so **ORDERED**.



Mark S. Davis
United States District Judge

Mark S. Davis
United States District Judge

Norfolk, Virginia

Date: July 27, 2017